UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

JAMES TAMBONE and ROBERT HUSSEY,

Defendants.

Civil Action No.: 06-10885 NMG

ORAL ARGUMENT REQUESTED

DEFENDANT JAMES TAMBONE'S
MOTION TO DISMISS THE COMPLAINT

Defendant James Tambone hereby moves to dismiss the Complaint in the above-captioned action pursuant to Fed. R. Civ. P. 9(b) and 12(b)(6), on the grounds that the Complaint fails to plead allegations of fraud with particularity and fails to state a claim upon which relief can be granted by this Court.

In support of this Motion, Defendant James Tambone submits the accompanying Memorandum of Law, filed herewith. In addition, Defendant James Tambone adopts and relies upon the arguments set forth in Defendant Robert Hussey's *Memorandum of Law in Support of Robert Hussey's Motion to Dismiss the Complaint* that has been filed separately in this action.

WHEREFORE, Defendant James Tambone respectfully moves this honorable Court to enter an order dismissing the Complaint with prejudice under Fed. R. Civ. P. 9(b) and 12(b)(6).

REQUEST FOR ORAL ARGUMENT

Pursuant to Local Rule 7.1(D), Defendant James Tambone believes that oral argument may assist the Court in resolving this Motion and hereby requests oral argument.

Respectfully submitted,

JAMES TAMBONE,

By his attorneys,

/s/ John A. Sten

A. John Pappalardo (BBO #388760)
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Dated: July 14, 2006

LOCAL RULE 7.1(A)(2) CERTIFICATION

I, John A. Sten, hereby certify that prior to this day, I have conferred with counsel for Plaintiff and attempted in good faith to resolve or narrow the issues presented in this Motion. Such efforts were unsuccessful.

/s/ John A. Sten
John A. Sten

CERTIFICATE OF SERVICE

I, John A. Sten, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF), and paper copies will be sent, via First-Class Mail, to those indicated as non-registered participants, on this 14th day of July, 2006.

/s/ John A. Sten
John A. Sten

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